

REMARKS

This Amendment is submitted in response to the Office Action of November 24, 2004. Claims 1-8 and 29-38 were pending in this application. Previously, original claims 9-28 were cancelled in view of a restriction requirement. In this Amendment, claims 1, 29 and 37 have amended to more clearly define the present invention. Language in Claim 5 was amended accordingly in view of the amendment made to independent claim 1. Claim 8 also was amended to overcome the rejection under the second paragraph of 35 U.S.C. § 112. New claims 39-47 are being presented for consideration. Applicants have carefully reviewed the arguments presented in the Office Action and respectfully request reconsideration of the claims in view of the remarks presented below.

Claims 1-8, and 29-38 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,660,021 to Palmer et al. ("the Palmer patent"). Applicants have reviewed the Palmer patent and respectfully disagree with the Examiner's position that the claimed invention is disclosed in this patent. The Examiner relies on FIG. 32 of the Palmer patent to support his position that a circumferential member, a proximal strut, a distal strut and first and second bending regions are disclosed in this patent. However, the particular structure of the cage of claim 1 now defines the proximal strut as having a first end attached to the circumferential member at the first bending region and a second end which is positioned substantially near a longitudinal axis which extends through the center of the circumferential member when the circumferential member is placed in the expanded position. Applicants respectfully direct the Examiner to FIGS. 16 and 17A of Applicants' specification which show one particular structure defined by this claim. Applicants note that FIGS. 32 and 33 of the Palmer patent fail to disclose this particular structure. In the expanded position, the proximal strut of the cage disclosed in the Palmer patent remains substantially parallel with the struts forming the circumferential member. For at least this reason alone, claim 1 and its dependent claims would be patentably distinct from the Palmer device.

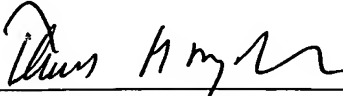
With respect to independent claims 29 and 37, it is noted that the particular structure requires the guide wire to extend through the inlet opening of the circumferential member. The particular structure of the cage which the Examiner has identified as a circumferential member fails to show the use of a guide wire which extends through the circumferential member. Applicants also note that the portion of the cage body identified as a circumferential member by the Examiner on page 3 of the Office Action does not appear to have a structure which would even allow a guide wire to extend through the "circumferential member" when placed in a deployed position. Applicants direct the Examiner to FIG. 33 of the Palmer patent which shows the cage deployed within a body vessel. It appears that the "circumferential member" identified by the Examiner lays somewhat flat against the body vessel which would prevent a guide wire from extending therethrough. Moreover, independent claim 37 requires a means for maintaining the guide wire substantially centered through the circumferential member when the cage is placed in the expanded position. The Examiner has failed to indicate where in the Palmer patent such structure is disclosed. Accordingly, Applicants believe that the Examiner has failed to establish that the Palmer patent discloses the presently claimed invention and respectfully request the Examiner to withdraw the Palmer patent as an anticipatory reference. With respect to dependent claims 2, 6-8, and 29-38, in view of the patentability of the independent claims from the Palmer patent, it is submitted that these claims would be patentable over the Palmer patent as well.

In view of the foregoing, it is respectfully urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at (310) 824-5555 to facilitate prosecution of this application, if necessary.

In light of the above amendments and remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By: 
Thomas H. Majcher
Registration No. 31,119

THM:kh

Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696
Customer No. 24201